HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 1676/2001 year 2001
(Old No. 28914/1996)

Khajan Singh

Versus

Regional Deputy Director, Education
Kumaon Region Nainital and others.

Approved for reporting.

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~~Not approved for reporting~~

Date of decision: 01.11.2003

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1676 of 2001
(Old No. 28914/1996)

Court No. 6

Khajan Singh,
S/o Late Chet Ram Singh,
R/o House No. 73, Ward No. 18,
Punjabi Mohalla, Near Janta School,
Kichha, Udham Singh Nagar. …… Petitioner

Versus

1. Regional Deputy Director, Education,
   Kumaon Region, Nainital.
2. Principal, Government Girls Inter College,
   Kichha, Udham Singh Nagar. …….. Respondents

Date: 1st November 2003

Hon'ble Rajesh Tandon, J.

The petitioner has filed the present writ petition seeking a writ of mandamus commanding the respondents to allow the petitioner to join at Govt. Girls Inter College, Kichha, Udham Singh Nagar as Senior Clerk and to pay his salaries regularly.

Brief facts of the case are that the petitioner was a Senior Clerk in Govt. Inter College, Swar, Rampur. The wife of the petitioner was a teacher in Primary School, Kanakpur, Distt. Udham Singh Nagar.

The petitioner has requested the authorities for transferring him near Kanakpur, Distt. Udham Singh Nagar. The petitioner was accordingly transferred on 25.7.96 from Govt. Inter College, Swar, Rampur to Govt. Girls Inter College, Kichha, Distt. Udham Singh Nagar.

The grievance of the petitioner is that one Ajay Kumar Trivedi was transferred to Govt. Inter College, Swar, Rampur and no post was left vacant.

The petitioner in compliance of the order reached Govt. Girls Inter College, Kichha, Udham Singh Nagar and requested to the principal of the college to allow him to join. However, the petitioner was not allowed to join on the ground that there was already a senior

clerk working in the college. The petitioner, therefore could not join at the transferred place. However, the petitioner has alleged that he was relieved on 13th August 1996 from Govt. Inter College, Swar, Rampur.

The petitioner has represented on 17.8.96 to the Addl. Director of Education, Directorate, Basic Education for accommodating him at Kichha as a Senior Clerk.

Further on 27.8.96, the petitioner has made a representation to the Addl. Director of Education. On 29.8.96, the petitioner, further has made a representation to the Regional Deputy Director, Kumaon Region, Nainital for accommodating him at Kichha, but of no response. In the background of the aforesaid situation, the petitioner has come up in the writ petition.

At the time of filing of writ petition, the following interim order was passed on 10th September 1996:

"List this Writ Petition on 18.9.96. w. coming stay."

As will appear from the order dated 10th September 1996, the petitioner was directed to make a representation, but the same has not yet been disposed of. The petitioner has already represented on 7.9.2002, but nothing has happened, no orders have been passed.

On behalf of the State, a counter affidavit has been filed.

In view of the aforesaid order passed on 22.8.96 both the parties have stated that the transfer order is still in existence.

The petitioner however has stated that the petitioner was never informed regarding the order dated 22.8.96 by which the transfer order has been changed i.e. from Kichha to Sitarganj. The petitioner has further stated that in the same order dated 22.8.96 there is a mention also that the transfer order may be amended accordingly but till today no information has been sent to him regarding the aforesaid amendment. Paragraph 6 of the order dated 22.8.96 is quoted below:-

"अपर षिक्षा निदेशक (बेसिक) शिक्षा निदेशालय (नियुक्ति – 1 अनुभाग इलाहाबाद को उनके आ0सं0नि0)/75/96–97 दिनांक 25.07.96 के संदर्भ में प्रेषित कर निवेदन है कि रा0क0इ0का0 किच्छा नैनीताल में वरिष्ठ लिपिक श्री

खजान सिंह को रा0इ0का0 सितारगंज नैनीताल में रिक्त पद में समायोजित किया गया है। इनके स्थानान्तरण आदेष को तदनुसार संशोधित करने की कृपा करें।"

The standing counsel has undertaken to abide the order dated 22.8.96 by which the petitioner has been transferred to Sitarganj instead of Kichha.

In view of the aforesaid facts and circumstances, mp relief can be granted to the petitioner under Article 226 of the Constitution of India.

The respondents are ready to comply the order dated 22.8.96.

The petitioner has given the undertaking that he will join at Sitarganj. The petitioner shall report on 7th November 2003 before the respondent No. 1 Regional Deputy Director of Education, Kumaon Region, Nainital, who will pass necessary orders regarding the joining of the petitioner in accordance with the order dated 22.8.96 or subsequent order passed thereon.

Liberty is given to the petitioner to approach the authorities for his posting as well as for remuneration.

In view of the aforesaid, the writ petition is dismissed. There will be no order as to costs. Registry shall send the copy of the order to the Regional Deputy Director of Education, Kumaon Region, Nainital.

(Rajesh Tandon, J.)

01.11.2003
Gur.